Book Launch

Revitalizing the World Trading System

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I wish to thank the Peterson Institute for its support for my writing this book and for hosting over 50 pieces of mine on its website produced while at the Institute, consisting of short and not-so-short essays on trade topics, ranging from my address at Glasgow University in June holding that the WTO is an important part of the legacy of Adam Smith, to how the WTO might best deal with issues of national security.

I was a subcabinet official in the Carter Administration along with Dick Cooper and Fred Bergsten, founders of the Institute, and served for years on its Advisory Committee. It is a continuing honor to be affiliated with the Institute today, but more important, benefiting from the continued intellectual exchange with, my colleagues, the Institute's fellows.

At this podium a few days ago, in celebrating the life of Dick Cooper, his 1972 article entitled "Trade Policy is Foreign Policy" was cited. His statement is even more true today, and in terms of US policy, there is clear cause for concern.

My book is about the world trading system that America's enlightened foreign economic policy created, and the need for that system to be made equal to the major challenges facing the world today – whether due to climate change, future pandemics or the impact of continuing technological advances, including artificial intelligence.

The world trading system stands for the proposition that international cooperation based upon both the rule of law and on sound economic principles, is essential to the future well-being and prosperity of the people in our country and abroad. We are linked to other nations by this common interest.

When I left the WTO on March 31st, 2021, I was intent upon writing a guidebook to the institution. What I had in mind was the kind of book that I would have benefited from when I arrived at the WTO in the summer of 2017.

It was not that I was unfamiliar with the rules of the international trading system. After all I had spent close to a half century in the field of international trade law and negotiations.

Despite all this experience, I knew that I was not familiar with all important aspects of the operations of the organization. This is also the case for most representatives newly appointed from member countries who are about to serve in Geneva at the WTO, for the trade officials back home, and for that matter, members of the public.

My idea was that if more people, more students, more officials, understood what the WTO stood for, how it worked, and where it did not work, and knew more about where the rule book had gaps, there would be a sound foundation for making improvements in the organization, and therefore improve the functioning of the world trading system.

What is in the book?

The book begins with a chapter on the origins of trade. Trade pre-dated the advent of homo sapiens on this planet. Obsidian, equivalent to the rare earths issue of today but 100,000 or more years ago, was not found everywhere nor perhaps processed everywhere and was needed for weapons. Evidence of trade is found in the archeological record before there was writing. Later, even writing is attributed by some scholars to the need to accompany traded goods with instructions as to their disposition. Much later, when Arab traders followed the monsoons across oceans, and trade took place overland on the silk road -- trade connected the planet.

The lesson here is that trade occurs for a variety of reasons, it always has, and likely always will. It is basic to civilization.

The book next looks at the WTO's own pre-history, the founding of the multilateral trading system, the vision of Franklin Roosevelt and Winston Churchill, and then the GATT era, and the strides that were made through eight great rounds of negotiations.

In this book, I appear from time to time in the occasional footnote. I defended US interests at the GATT, when the US tried to correct an imbalance in the basic rules on how countries tax people and goods, and again when the US was in dire balance of payments trouble and needed to drive change in the international monetary system.

I was onsite at the attempted wrap-up of the Uruguay Round in Brussels in 1990 and was with the USTR (Mickey Kantor) in the early hours of the morning of the last day of the negotiations of the Round in Geneva, in 1993, the negotiation that established the WTO, as well as having been in contact with key delegations during the last two weeks of the negotiations. As a result, I have a pretty good idea of what key delegations' institutional priorities were in the Round. I have compared my recollections with contemporaneous sources in writing of the WTO's founding. What has become apparent in the intervening 28 years of the WTO's

existence is that insufficient time, energy and thought was given to transforming a trade contract, the GATT, into a world trade organization. That job remains to be done.

Next the book next covers the history of progress in the WTO, as evidenced in its 12 ministerial conferences. Many were dubbed in reports at the time as failures.

I was present at the Eleventh WTO Ministerial Conference, MC11, in Buenos Aires, in 2017, It too was to be called a failure, but that is wrong. It launched plurilateral discussions among coalitions of the willing, to work toward negotiations on digital trade, domestic regulation of services, investment facilitation, and greater equity in trade, with respect to gender and small and medium enterprises. It illuminated a path forward to take up trade and climate change, and other environmental causes.

Most of the work of the WTO is neither in litigation, a subject most reported on, nor at ministerial conferences. It takes place in committee meetings. I provide the reader a chance to visit virtually with some of the key WTO committees and place the reader, for example, in the working party on China's accession to the WTO, one of the most consequential activities in the WTO's 28-year history.

The book also gives an in-depth consideration to at least some important subjects – dispute settlement, agriculture, services, e-commerce and development.

Lastly, I address where reforms were needed in the institutional framework of the WTO for it to be able to solve current and future issues of great importance to global economic policy.

Conclusions from this history

It took close to 50 years in the life of the world trading system to get to the point of establishing a World Trade Organization. The 50th anniversary of the founding of the system was celebrated in 1998 by a gathering of 17 world leaders in Geneva – including Nelson Mandela, Bill Clinton, Tony Blair, and Jacques Santer, President of the European Commission -- each making eloquent statements about what had been achieved and his hopes for the future,

We are now at the moment of the largely unmarked Diamond Jubilee, the 75th anniversary of the founding of the multilateral trading system, and we find that the ground has shifted under us. No celebratory meeting of world leaders has taken place. In its place are substantial concerns about the effectiveness of the WTO and the future direction it should take.

When members talk of WTO reform, most of them refer to the loss of the Appellate Body. The agreed dispute settlement system itself was terminated by the United States blocking the appointment of appellate body members. That date, marking the end of the Appellate Body and the WTO's binding dispute settlement, December 10, 2019, is captured in the picture on the cover of my book, with a wall of the WTO in shadow under a wintry sun.

This does not mean that the future is dark for a return to binding dispute settlement – "binding" meaning that there would again be final results from adjudications when litigation is

unavoidable. Binding dispute settlement was an important component of the original scheme of the world trade organization, if not in the eyes of all, viewed by many as the "jewel in the crown". There is a path forward. In the near term, it can come in the form of a separate interim arrangement that includes the United States. The European Union has shown how this can be done. The arrangement would have to take into account clear deficiencies the US has enunciated.

A start in the right direction would be for Members to instruct the Director General that if they do not succeed by 2024 in repairing dispute settlement that she has no further authority to accept an obvious fraud of filing appeals into the void (to an Appellate Body that does not and will not in its current form ever exist) which will no longer be entertained. Obligations must be lived up to or a price paid for departing from them.

At least equally important, the WTO, like the GATT, has to become a place where like-minded countries can make new agreements, without fear of being blocked by non-participants. This issue may be eased through in a first instance by a popular agreement on Investment Facilitation for Development that was concluded in July. The path must be cleared by those caring for the system to conclude additional agreements, whether for food security, to fight future pandemics, or making rules for digital commerce. Nonsignatories would not be obligated but could not block. This is a *sine qua non* for a robust future for the WTO.

The third area of reform is to acknowledge the important role of the Director General and Secretariat in shaping the agenda and driving progress. No institution of any size, whether social club or national government, can thrive without an executive as part of its governance structure. Just compare the role of WTO Director-General with that of the chief executives of the other international economic institutions, the World Bank, the International Monetary Fund, and the OECD. That this is about trade and not finance is not a sufficiently differentiating factor. The Director General must assure that there is full transparency, that strategic foresight identifies threats to the trading system's members before they are overwhelmed by them and help plan the organization's agenda and its planning. There would not have been a WTO at all but for GATT Director-General, Arthur Dunkel, tabling a draft of the landing zone for the Uruguay Round.

The book has detailed discussion of each of these points.

What will the future hold?

John McCain, the US Senator who ran for President in 2008, quipped, "it is always darkest before it turns pitch black". It is all too easy to feel that way at present. At this moment, the most likely Republican US Presidential candidate has pledged to put an across-the-board tariff on all imports, basically a declaration of a trade war, tantamount to US renunciation of its international trade obligations. The general election that will take place in November 2024 will determine, among other things, whether the US will turn its back on the global trading system, whether as a nation we will keep our word.

I do not believe that a worst-case scenario will take place, but the chances of its happening are not negligible. In the movie, Oppenheimer, the scientist is asked whether the

atom bomb might destroy the world through an uncontrollable chain reaction. He answers that "the chances are near zero". His army boss replies that the answer that he would prefer would be "zero".

I have not come here today nor written this book to make Cassandra-like predictions of doom. In fact, just the opposite.

In the year 2020, I was asked to contribute ideas to Saudi Arabia, the host country for that year's G20 meeting, as to what agreed principles underlay the WTO. This caused me to reflect on what the values of the WTO were. I identified 20. They include more than serving the bedrock principles of nondiscrimination, national treatment and transparency. One of these, creating the conditions for a durable peace, is the reason for the creation of the trading system to begin with, and it is now the driving purpose for accession to the organization with respect to conflict-affected countries, such as Sudan, South Sudan, Ethiopia, Somalia and others. Trade does not guaranty peace, but it makes it more possible, more durable.

Larry Summers at his Richard Cooper lecture noted that there had not been a war between great powers since the founding of the liberal international order of which the global trading system is an essential part. Toying with the destruction of the system is something that should be approached with great care. I commend that thought to the US Congress, which in the US constitutional system is accorded the Commerce Power of the country.

Conclusion

In thinking about remarks for this morning, I came to a stark realization. The world trading system that exists now could not be re-created in today's world.

With its imperfections and incomplete nature, no new world trading system of equal value could be agreed to now. The current global trading system, to which 164 sovereign trading countries and authorities subscribe, and to which another two dozen seek to join, could not be replaced other than with a highly fragmented trading world. Few trading nations would once again bind their levels of tariffs on a global basis, few would commit to limit domestic support for agriculture to the extent that it is today. Not even the concept of nondiscrimination or full transparency could again be agreed. Not now. Nor perhaps ever.

My advice to the trade ministers gathering at MC13 is –

(1) That they should work to retain what has been achieved, not spending their time creating new exceptions.
(2) That they should repair what has been lost – not least binding dispute settlement, and
(3) That they should build upon what they already have, to meet emerging new challenges such as the trade aspects of dealing with climate change, food insecurity, future pandemics, and the inexorable disruption caused by new technologies, to name a few.

MC13 should achieve what it can, and result in serious work programs to prepare for negotiations on other vitally important subjects for which growing international trade must be part of the answer.

All WTO members' ambassadors will have this book. My hope is that all listening today, if they teach or know someone who does, that they utilize this book in university courses, to spread the understanding of what the world trading system is, to value it, preserve it and improve it.

Thank you. I will be happy to join Professor Jennifer Hillman for a discussion of the issues raised in the book, and then answer questions. She is a much-published author, whose latest book on Trade Tools to Combat Climate Change, I commend to you.